

OFFICIAL COPY

Fresno, California

April 18, 2006

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Henry Perea	Acting President
	Cynthia Sterling	Councilmember
	Larry Westerlund	Councilmember
	Jerry Duncan	Council President

Andy Souza, City Manager
James Sanchez, Interim City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Pastor Ara Guekguezian of the Pilgrim Armenian Congregational Church gave the invocation, and City Manager Souza led the Pledge of Allegiance.

PRESENTATION OF THE CARL HERNANDEZ PEER RECOGNITION AWARD TO 2006 RECIPIENT JULIAN PEREA - ACTING PRESIDENT PEREA

Presented.

RECOGNITION TO HOLT, RINEHART AND WINSTON FOR SUPPORTING THE PR&CS FREE BOOK LIBRARIES IN SOUTHWEST FRESNO AND THE PR&CS COMMUNITY SCIENCE WORKSHOPS - COUNCILMEMBER STERLING

Recognized.

PROCLAMATION OF "WILLIAM QUICK DAY", EMPLOYEES' RETIREMENT BOARD CHAIRMAN - COUNCILMEMBER DAGES

Read and presented.

PRESENTATION OF THE P.R.I.D.E. TEAM CERTIFICATES FOR THE SPRING QUARTER

Certificates of Commendation were presented to Trai Her, Mayor/Council/Manager/City Clerk Departments; Larry Henderson, Airports Department; Gilbert Elizondo and Eva Chavez, Finance Department; VonDosta Fuller, Theodore Semonious and Rick McClung, Fire Department; Billy Short, Gabriel Salinas and Lester Fuller, Fresno Area Express; Suzanne Paff and Joseph Burgen, General Services Department; Rob Barnes, Information Services Department; Apolinar Muniz and Nancy Ho, Parks, Recreation & Community Services Department; Kerri Uyesaka and Dary Boualamsy, Personnel Services Department; Dennis Blevins and Josie Mena, Planning & Development Department; Teri Terry, Carla Glazebrook, Virg Galvan, Brandi Phebus and Gil Hernandez, Police Department; Hector Ramirez, Erin Davis, Aaron Aguirre, Joe Hill and Don Wells, Public Utilities Department; and Abel Orozco, Monica Aguero, Juan Cazares, Teffra Belete and Brian Kujawski, Public Works Department. A reception was held immediately following on the second floor foyer to honor the employees.

RECESS - 9:15 A.M. - 9:28 A.M.

APPROVE MINUTES OF APRIL 4, 2006:

On motion of Councilmember Westerlund, seconded by Councilmember Boyajian, duly carried, RESOLVED, the minutes of April 4, 2006, approved as submitted.

147-121

4/18/06

COUNCIL MEMBER REPORTS AND COMMENTS:

REQUEST STAFF ADDRESS THE ISSUES OF: (1) A GENTLEMAN PUTTING UP "I WILL BUY YOUR HOUSE" SIGNS, AND (2) SEWER ISSUE AT 5200-5300 BLOCK OF E. HUNTINGTON, AND ANNOUNCEMENT AND INVITATION TO THE ANNUAL TEXAS HOLD 'EM TOURNAMENT FOR CHARITY AT CLUB ONE CASINO ON MAY 6TH - COUNCILMEMBER DAGES

Requests and announcement made **(2 - 0)**.

(1) ANNOUNCEMENT OF COUNCIL RESOLUTION OPPOSING THE FIG GARDEN BNSF RAILROAD PASSING LANE SCHEDULED ON THE CALIFORNIA TRANSPORTATION COMMISSION'S APRIL 27TH AGENDA AT 10:30 A.M. IN THE COUNCIL CHAMBERS; AND (2) FRESNO PUBLIC TRANSPORTATION INFRASTRUCTURE STUDIES WORKSHOP AND THE DRAFT EXECUTIVE SUMMARY REPORT CONDUCTED BY COG - COUNCILMEMBER CALHOUN

(1) Announcement made, and (2) relative to the study Councilmember Calhoun stated his staff attended the workshop and obtained the material and questioned what happens to the study and if the city should benefit from it due to planning issues and since Fresno contributes a significant amount of money. City Manager Souza stated noted the report was a draft and stated he would ask COG to make a presentation to Council when the report is finalized, and added when the report is finalized the implementation process then would start.

OPENING OF THREE NEW RESTAURANTS IN THE TOWER DISTRICT - COUNCILMEMBER BOYAJIAN

Councilmember Boyajian stated a renaissance was occurring in the Tower District and advised of the three new restaurants and encouraged everyone to patronize them.

APPROVE AGENDA:

(3:30 P.M.) HEARING TO CONSIDER ADOPTION OF BILL NO. B-30 RELATING TO REQUIRED INSTALLATION OF AUTOMATIC FIRE EXTINGUISHING SYSTEMS FOR ALL OCCUPANCIES

1. CONSIDER AND ADOPT FINDINGS REGARDING LOCAL CLIMATIC, GEOLOGICAL AND TOPOGRAPHICAL CONDITIONS THAT WARRANT THE AMENDMENTS TO THE UNIFORM FIRE AND BUILDING CODES TO REQUIRE FIRE SPRINKLERS AS SET FORTH IN BILL B-30

2. BILL NO. B-30 - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO REQUIRED INSTALLATION OF AUTOMATIC FIRE EXTINGUISHING SYSTEMS FOR ALL OCCUPANCIES

City Clerk Klisch advised staff was requesting the item be removed from the agenda and it would be re-introduced with an amendment on May 9th.

(1-I) AWARD A CONTRACT TO KELLY C. BROYLES CONSTRUCTION FOR THE INSTALLATION OF 8" WATER MAINS IN MORRIS, CELESTE, DELNO, ROBERTS AND TEILMAN AVENUES

City Clerk Klisch advised staff wanted the advertisement date of March 8, 2006, to be announced.

(1-K) AWARD A CONTRACT TO ROCKY MOUNTAIN WELDING AND FABRICATING, INC., TO SUPPLY METAL REFUSE AND RECYCLING CONTAINERS AS PER SPECIFICATIONS IN THE BID FILE

City Clerk Klisch advised the Notice Inviting Bids was advertised on February 22nd with a bid opening date of March 16th noting that information was inadvertently omitted from the staff report.

(1-M) RESOLUTION - APPROVING THE FINAL MAP OF TRACT NO. 5517 AND ACCEPTING DEDICATED PUBLIC USES THEREIN; AND AUTHORIZE THE PUBLIC WORKS, PUBLIC UTILITIES AND PLANNING & DEVELOPMENT DIRECTORS TO EXECUTE THE NECESSARY DOCUMENTS

City Clerk Klisch advised the correct date at the bottom of Page 2 of the staff report was October 15, 2007, not 2005.

147-122

4/18/06

(2:15 P.M.) WORKSHOP TO DISCUSS WHETHER THE CITY MANAGER AND REDEVELOPMENT AGENCY EXECUTIVE DIRECTOR SHOULD ISSUE A JOINT RFP TO HIRE A PROFESSIONAL SERVICES FIRM TO PERFORM AN ANALYSIS WITH RECOMMENDATIONS OF THE REDEVELOPMENT AGENCY AND ECONOMIC DEVELOPMENT DEPARTMENT TO INCLUDE BEST PRACTICES AND PROJECT-SPECIFIC EVALUATIONS - COUNCILMEMBER CALHOUN AND ACTING PRESIDENT PEREA

(Continue to May 2, 2006, at 2:15 p.m. - Subsequently continued to May 9th at 2:15 p.m.)

The continuation to May 2nd was noted. After the following request by Councilmember Westerlund, President Duncan advised he would be absent from the May 2nd meeting and he wanted to participate in that workshop and upon his request the workshop was continued to May 9, 2006, at 2:15 p.m.

(10:35 A.M.) HEARING ON REZONE APPLICATION NO. R-05-61 AND ENVIRONMENTAL FINDINGS FILED BY CENTEX HOMES ON BEHALF OF DAMRONG AND SOMLUCK PATTANUMOTANA AND AHMED KHALED, PROPERTY LOCATED AT N. LOCAN AND E. SHIELDS AVENUES

1. ADOPT E.A. NO. R-05-61/T-5592/C-05-187, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR
2. BILL - AMENDING THE OFFICIAL ZONE MAP

Councilmember Westerlund advised the developer needed additional time to meet with area residents and requested the hearing be continued to June 13th. By Council consensus the matter was continued to June 13th at 10:00 a.m.

Noting the corrections made to Items **1-I**, **1-K** and **1-M**, President Duncan requested the city manager ask staff to be careful and review reports before they are placed in Council packets so these types of adjustments can be avoided at the last minute stating they can cause some confusion.

On motion of Councilmember Westerlund, seconded by Councilmember Dages, duly carried, **RESOLVED**, the **AGENDA** hereby approved, as amended, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes :	None
Absent :	None

ADOPT CONSENT CALENDAR:

(1-A) AUTHORIZE THE CHIEF INFORMATION OFFICER TO ENTER INTO AN AGREEMENT WITH SALTMINE, INC. FOR WEBSITE AND CONTENT MANAGEMENT SYSTEM CONSULTING SERVICES FOR THE WEBSITE MANAGEMENT SYSTEM IMPLEMENTATION AND CONTENT DEVELOPMENT PROJECT

(1-B) RESOLUTION NO. 2006-140 - INTENT TO ANNEX TRACT NO. 5326 TO CFD NO. 2, ANNEXATION NO. 118, AND SETTING THE REQUIRED PUBLIC HEARING FOR MAY 23, 2006

(1-C) RESOLUTION NO. 2006-141 - 64TH AMENDMENT TO AAR 05-286 APPROPRIATING \$45,100 TO FUND THE MEDICAL RESERVE CORPS GRANT PROJECT

(1-D) AUTHORIZE ACCEPTANCE OF FY 2005 CYCLE BUFFER ZONE PROTECTION PLAN FUNDS FROM THE STATE OF CALIFORNIA GOVERNOR'S OFFICE OF HOMELAND SECURITY IN THE AMOUNT OF \$189,148

1. RESOLUTION NO. 2006-142 - 71ST AMENDMENT TO AAR 05-286 APPROPRIATING \$50,000 TO BEGIN IMPLEMENTATION OF THE CYCLE BUFFER ZONE PROTECTION PLAN PROCESS OF TARGET HARDENING

(1-E) APPROVE THE AMENDED AGREEMENT FOR THE SOUTHWEST WEED AND SEED GRANT PROGRAM AND RATIFY THE AGREEMENT FOR THE PROGRAM

1. RESOLUTION NO. 2006-143 - 75TH AMENDMENT TO AAR 05-286 APPROPRIATING \$41,000 FOR THE PROGRAM

(1-F) RESOLUTION NO. 2006-144 - 72ND AMENDMENT TO AAR 05-286 APPROPRIATING AN ADDITIONAL \$460,000

RESULTING FROM RETROACTIVE MEMORANDUM OF UNDERSTANDING SALARY ADJUSTMENTS (IAFF, LOCAL 753, FIRE NON-MANAGEMENT - UNIT 5)

147-123

4/18/06

(1-G) APPROVE THE ACQUISITION OF A 1,893 SQUARE FOOT STREET EASEMENT FROM PROPERTY OWNED BY SARBJIT SINGH AND PARMJIT KAUR; AND AUTHORIZE THE PUBLIC WORKS DIRECTOR TO ACCEPT THE DEED OF EASEMENT AND EXECUTE THE AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND COMPLETE THE ACQUISITION THROUGH ESCROW

(1-H) RESOLUTION NO. 2006-145 - INTENT TO ANNEX FINAL TRACT NOS. 5374 AND 5313 TO CFD NO. 2, ANNEXATION NO. 119, AND SETTING THE REQUIRED PUBLIC HEARING FOR MAY 23, 2006

(1-I) AWARD A CONTRACT FOR THE BASE BID AND ADD ALTERNATE 1 IN THE AMOUNT OF \$493,371 TO KELLY C. BROYLES CONSTRUCTION FOR THE INSTALLATION OF 8" WATER MAINS IN MORRIS, CELESTE, DELNO, ROBERTS AND TEILMAN AVENUES

Councilmember Calhoun stated although he got the information he was seeking from staff the staff report was not complete as it did not show the other bidders and their bid amounts and encouraged staff to provide all information in reports so Council does not have to request it on Mondays.

(1-J) RESOLUTION NO. 2006-146 - ADOPTING THE FRESNO AREA REGIONAL GROUNDWATER MANAGEMENT PLAN AND AUTHORIZING THE PUBLIC UTILITIES DIRECTOR TO SIGN ON BEHALF OF THE CITY

Councilmember Calhoun stated he was pleased to see this matter moving forward and he would pose questions at the water workshop this afternoon.

(1-K) AWARD A CONTRACT TO ROCKY MOUNTAIN WELDING AND FABRICATING, INC., IN THE AMOUNT OF \$774,520.41 TO SUPPLY METAL REFUSE AND RECYCLING CONTAINERS PER THE SPECIFICATIONS

(1-L) APPROVE APPOINTMENT OF LOURDES M. DAWSON TO THE FRESNO-MADERA AREA AGENCY ON AGING BOARD - MAYOR AUTRY

(1-M) RESOLUTION NO. 2006-147 - APPROVING THE FINAL MAP OF TRACT NO. 5517 AND ACCEPTING DEDICATED PUBLIC USES THEREIN; AND AUTHORIZE THE PUBLIC WORKS, PUBLIC UTILITIES AND PLANNING & DEVELOPMENT DIRECTORS TO EXECUTE THE NECESSARY DOCUMENTS OUTLINED IN THE STAFF REPORT

On motion of Acting President Perea, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes :	None
Absent :	None

(9:00 A.M.) PUBLIC COMMENT PERIOD:

(A) SCHEDULED COMMUNICATION: - APPEARANCE BY JOHN AND KATIE DIAZ TO DISCUSS AND REQUEST ACTION TO AMEND THE FRESNO MUNICIPAL CODE RELATING TO NOISY EXOTIC BIRDS WITHIN CITY NEIGHBORHOODS

Appearance made with Councilmember Boyajian, Interim City Attorney Sanchez and code enforcement staff responding and stating three city departments looked into the complaint/issue, they found no public nuisance existed and explained, all city avenues were exhausted, and an option for the Diaz' was to file a civil motion for a temporary restraining order. (Response from the bird owner followed under unscheduled communications.)

(B) UNSCHEDULED COMMUNICATIONS:

APPEARANCE BY LYNN DANELL, OWNER OF THE BIRD IN THE DIAZ' COMPLAINT, REGARDING THEIR COMPLAINT

Ms. Danell spoke to their attempts to resolve the issue and stated agreements were reached and they tried to compromise on numerous occasions but the Diaz' were never satisfied and kept asking for more and more and further elaborated.

147-124

4/18/06

APPEARANCE BY KATHLEEN ARRETCHÉ, 1911 W. SUSSEX WAY, REGARDING CURB CUT INSTALLATION AND RESULTING PROBLEM/DAMAGE TO THEIR TREE AND SEWER LINE

Appearance made with City Manager Souza stating the situation did not sound right and advised staff would be in contact.

APPEARANCE BY CHARLES LaRUE REGARDING ITEM 2-A, TRASH CONTAINERS IN VIEW

Appearance made with Mr. LaRue stating he supported the ordinance but stated the radio announcements caught people by surprise and made suggestions on what the city should have done to inform the people.

APPEARANCE BY MIKE PRANDINI, BIA, REGARDING THE 4:15 P.M. ITEM, PARKS COMMISSION FINAL REPORT

Mr. Prandini stated he would be unable to appear this afternoon and submitted a letter into the record expressing concerns with Commission recommendations 4 and 5, on file in the office of the city clerk.

(9:15 A.M.) RESOLUTION NO. 2006-148 - 21ST AMENDMENT TO PAR 05-287 ADDING THREE (3) NEW FULL-TIME INSPECTORS FOR THE PLANNING & DEVELOPMENT DEPARTMENT

Planning & Development Director Yovino gave an overview and PowerPoint presentation of the issue, all as contained in the staff report as submitted, and noted building activity in the city was at a record level and recommended the resolution be adopted as staff expected that level to remain high the next 3 to 5 years and further elaborated.

Speaking in support of staff's recommendation were: Jeff Krueger, Generation Homes, 1368 W. Herndon, and Mike Schultz, representing Beezer Homes, a national production home builder based in Atlanta.

Upon question of Councilmember Westerlund, Mr. Yovino confirmed the positions being requested would be in addition to the temporary positions that were added previously.

On motion of Councilmember Westerlund, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Resolution No. 2006-148 hereby adopted, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes :	None
Absent :	None

(9:20 A.M.) BILL NO. B-45 - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO TAXI CAB REGULATIONS

Interim Assistant City Manager Rudd acknowledged and commended staff who worked on the changes and gave an in-depth PowerPoint presentation on the issue and changes, all as contained in the staff report as submitted **(3 - 0)**.

Councilmember Calhoun spoke in support of the changes, to his cab riding experiences and problems he has seen, and to the importance of clean and safe taxi cabs and making a good first impression to visitors, presented questions relative to why procedures were not included in the ordinance for the Amtrak station and airport as they were for the bus station, and to the provision whereby the airport can establish separate procedures (with Mr. Rudd responding), and made a motion to introduce the ordinance bill. The motion was seconded by Acting President Perea who commended staff and the industry for coming together, spoke to difficulty of getting a cab at the airport as they were parked so far away, and questioned how the process of making it easier to get a cab was working, with Mr. Rudd responding.

Discussion ensued with Mr. Rudd responding to questions of Councilmembers Boyajian and Westerlund relative to whether drivers would be allowed to select their own repair facility, if there were any mandatory provisions that they have to go through the city, the random inspections that will take place, number of cabs without permits, the doubling of permit fees for those in violation, number of staff that will handle the random inspections, number of inspections that will be done annually, and if staff would consider reducing license fees for hybrid vehicles and encourage drivers to purchase hybrid vehicles.

147-125

4/18/06

President Duncan stated this was a good ordinance and a good move and stated although the city was improving its image and appearance with this ordinance the safety of passengers was the number one priority.

On motion of Councilmember Calhoun, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Bill No. B-45 introduced before the City Council and laid over, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes :	None
Absent :	None

(10:00 A.M.) WORKSHOP ON EAST FRESNO WATER ISSUES

The workshop was conducted by Water System Manager Martin who gave an in-depth PowerPoint presentation on the issue which included wells and contamination, groundwater contamination in the southeast area, **(4 - 0)** the nitrates problem and conjunctive use solution, the Metropolitan Water Resource Management Plan, groundwater recharge, and required water meters including cost and installation schedule, and responded to questions/comments of Councilmembers Calhoun, Westerlund and President Duncan throughout. President Duncan thanked Mr. Martin for his presentation stating it was very informative and there was no further discussion.

(10:30 A.M.) HEARING ON CFD NO. 2, ANNEXATION NO. 110, FINAL TRACT MAP NO. 5457

- 1. RESOLUTION NO. 2006-149 - ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF A SPECIAL TAX**
- 2. RESOLUTION NO. 2006-150 - CALLING A SPECIAL MAILED-BALLOT ELECTION**
- 3. RESOLUTION NO. 2006-151 - DECLARING ELECTION RESULTS**
- 4. BILL NO. B-46 - ORDINANCE NO. 2006-44 - LEVYING A SPECIAL TAX FOR THE 2006-07 PROPERTY TAX YEAR AND FUTURE TAX YEARS**
- 5. RESOLUTION NO. 2006-152 - APPROVING THE FINAL MAP OF TRACT 5457 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, AND AUTHORIZING THE PUBIC WORKS DIRECTOR, PUBLIC UTILITIES DIRECTOR, FIRE CHIEF AND PLANNING & DEVELOPMENT DIRECTOR TO EXECUTE THE NECESSARY DOCUMENTS**

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Public Works Director Healey stated the staff report as submitted was complete and there was no new information to add.

Jeff Roberts, on behalf of Granville Homes, stated he supported staff's recommendation.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

On motion of Councilmember Calhoun, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Resolution Nos. 2006-149, 2006-150, 2006-151 and 2006-152 hereby adopted, and the above entitled Bill No. B-46 adopted as Ordinance No. 2006-44, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes :	None
Absent :	None

(10:45 A.M.) HEARING ON REZONE APPLICATION NO. R-05-28 AND ENVIRONMENTAL FINDINGS FILED BY JOHN ALLEN ON BEHALF OF IMAGE HOMES, INC., PROPERTY LOCATED ON THE EAST SIDE OF N. CECILIA BETWEEN W. SIERRA AND W. ELLERY AVENUES

- 1. CONSIDER AND ADOPT E.A. NO. R-05-28/T-5527, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR**

2. BILL NO. B-47 - ORDINANCE NO. 2006-45 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-5/UGM TO R-1/UGM/cz

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question a planning & development staff member stated the staff report as submitted was complete and there was no new information to add.

147-126

4/18/06

Applicant John Allen requested Council's support as recommended by staff.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

Staff responded briefly to questions of Councilmember Boyajian relative to number of units being proposed and what specific impact fees the developer would be paying into.

On motion of Councilmember Calhoun, seconded by Councilmember Dages, duly carried, RESOLVED, the environmental finding for E.A. No. R-05-28, dated December 15, 2005, that the project proposal conforms to the provisions of the General Plan MEIR hereby approved, and the above entitled Bill No. B-47 adopted as Ordinance No. 2006-45, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

(11:00 A.M.) CONTINUED HEARING ON REZONE APPLICATION NO. R-05-106 AND ENVIRONMENTAL FINDINGS FILED BY ETHAN SMITH ON BEHALF OF DALE AND MARY MENDOZA AND LEE ROY AND EVELYN WELDON, PROPERTY LOCATED ON THE SOUTH SIDE OF W. NEILSEN BETWEEN S. HUGHES AND S. WEST AVENUES

1. CONSIDER AND ADOPT E.A. NO. R-05-106, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. BILL NO. B-48 - ORDINANCE NO. 2006-46 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM AE-5/UGM TO M-1/UGM/cz

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question a planning & development staff member stated the staff report as submitted was complete and there was no new information to add.

Applicant representative Ethan Smith of Grubb & Ellis, 7480 N. Palm, stated he was in support of staff's recommendation.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

A motion and second was made to approve staff's recommendation.

Mr. Smith responded to questions of Councilmember Boyajian relative to whether the property was within or adjacent to the Roeding Business Park area, what the plans were for the property, and if Mr. Smith spoke with the buyers about their plans for the property. President Duncan expressed his support stating this pre-zoning of the property was a good move.

On motion of Councilmember Sterling, seconded by Councilmember Westerlund, duly carried, RESOLVED, the environmental finding for E.A. No. R-05-106 dated January 26, 2006, that the project proposal conforms to the provisions of the General Plan MEIR hereby approved, and the above entitled Bill No. B-48 adopted as Ordinance No. 2006-46, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

(2-A) DISCUSSION OF IMPROVEMENTS TO BE MADE BY THE PUBLIC UTILITIES DEPARTMENT RELATING TO THE EDUCATION AND ENFORCEMENT PROCESS UNDERWAY REGARDING TRASH CONTAINERS

President Duncan stated it was his understanding some positive changes would be occurring and upon his request Interim Public Utilities Director Ramirez and Jolene Wofford, community coordinator for the project, gave an overview of the issue and a PowerPoint

presentation which included what the department was doing, photos depicting what the city is trying to avoid, new educational brochures that are being worked on for distribution, ways to screen containers, and number of complaints received (**5 - 0**), and the new approach staff was taking.

147-127

4/18/06

Lengthy discussion ensued with Mr. Ramirez, Ms. Wofford and Solid Waste Chief of Operations Weakley responding to questions, comments and/or concerns of Councilmembers Westerlund, Boyajian and Dages relative to the importance of telling the story and having people understand there are challenged areas and epidemics in some neighborhoods, alley pickups, the need to be sensitive to law-abiding, elderly people who are not able to move their containers, importance of informing people that help is available, if code enforcement or public utilities employees were going out to residences, if the employees would deal only with containers in view or if they would also be looking for contamination, what the options were for people who cannot afford to build a barrier, if there were plans to purchase smaller containers, and the problem of developments being built without proper storage room.

President Duncan thanked staff for implementing an ordinance that was unanimously passed by Council and for now stepping back and making changes and added he was impressed with the approach being taken. There was no further discussion.

LUNCH RECESS - 12:31 P.M. - 2:00 P.M.

(2:00 P.M.) CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL:

(A) EXISTING LITIGATION - CASE NAMES:

1. LARRY MESSICK (DECEASED) V. COF
2. U.S.A. V. COF; AND FAMILY ALLIANCE FOR THE MENTALLY ILL, AFFORDABLE HOMES, INC., CRAIG HARVEY AND JANE DOE V. COF, ET AL, U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF CA (FAMI V. COF)

(B) ANTICIPATED LITIGATION/ SIGNIFICANT EXPOSURE TO LITIGATION - CASE NAME: CONSTRUCTION DEVELOPMENT SYSTEMS V. COF

The City Council met in closed session in Room 2125 at the hour of 2:05 p.m. to consider the above matters and reconvened in regular open session at 3:00 p.m.

CLOSED SESSION ANNOUNCEMENT:

Interim City Attorney Sanchez announced in the matter of Item "B", the Council voted 7-0 to authorize a settlement with Construction Development Systems.

(2-B) REQUEST CITY COUNCIL TO ESTABLISH A BUDGET COMMITTEE - COUNCILMEMBER BOYAJIAN

Councilmember Boyajian stated he felt the Council budget committee had been a very effective tool and explained what the committee does, all as contained in his report to Council as submitted, and emphasized the budget was for the people of Fresno and Council represented the people. Councilmember Calhoun spoke in opposition stating Council should debate issues and then make decisions, he did not want negotiations occurring on his behalf, and he felt a budget committed raised suspicion that Council did not trust the mayor and staff to bring forth a good budget and further elaborated. Councilmember Sterling stated she understood both sides but she saw the committee as an opportunity for Council to get a good perspective and insight on where to go and it also made something that is a little complicated easier to understand. President Duncan stated he concurred with Councilmember Calhoun, noted he had served on a couple of committees and did not believe in them, and stated seven viewpoints were more powerful than a committee.

A motion of Councilmember Boyajian, seconded by Councilmember Sterling, to establish a Council Budget Committee failed, by the following vote:

Ayes : Boyajian, Sterling
Noes : Calhoun, Dages, Perea, Westerlund, Duncan
Absent : None

(2-C) REQUEST FOR UPDATE ON THE VACANT AND DANGEROUS BUILDING ORDINANCE - COUNCILMEMBER BOYAJIAN

147-128

4/18/06

Councilmember Boyajian stated his concern was that it took so long to get this ordinance and he was still seeing vacant buildings, especially downtown, and stressed the city needed to take action. Interim Code Enforcement Manager Robinson advised the ordinance has allowed staff to take several actions and added staff was currently working on other actions, stated dealing with vacant buildings takes longer than dealing with residential structures, and along with City Manager Souza and Planning & Development Director Yovino responded to questions relative to whether there was anything the city could do to improve the ordinance and if the city was taking a proactive stance to help building owners succeed **(6 - 0)**. Councilmember Calhoun concurred this was the type of issue that was of concern to all members and spoke to the need for Council to obtain information from staff and know all the issues involved so Council can make policy decisions, read a memo into the record that he sent to Mr. Yovino requesting information on vacant downtown buildings, and stated when he receives the information it was his plan to share it with Council. There was no further discussion.

(2:40 P.M.) HEARING ON REZONE APPLICATION NO. R-05-40 AND ENVIRONMENTAL FINDINGS FILED BY LAFFERTY HOMES, INC., AND ROBERT DOMINGUEZ, MARGARET C. DOMINGUEZ, RHONDA WALK AND HARRY AND DOROTHY PAUL, PROPERTY LOCATED SOUTHEAST OF THE CORNER OF W. DAKOTA AND N. CORNELIA AVENUES

1. CONSIDER AND ADOPT E.A. NO. R-05-40/T-5479, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. BILL NO. B-49 - ORDINANCE NO. 2006-47 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM AL-20 TO R-1

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Planner Brock advised the staff report as submitted was complete and there was no new information to add.

Upon call, no one wished to be heard and President Duncan closed the hearing.

Councilmember Boyajian spoke in opposition stating this project was near Central West High School and Steinbeck Elementary School and there were no signals, spoke to his concern with the traffic study stating it did not look at the corners of Cornelia/Dakota and Blythe/Dakota, and stated the cumulative impacts were not shown, he would not jeopardize students or support piecemeal development, and made a motion to deny.

A representative of Lafferty Homes and Traffic Engineering Manager Mozier responded to questions of Councilmember Sterling relative to the traffic impact study that was conducted and why the developer was not installing signals. Councilmember Sterling seconded the motion to deny.

Planner Brock clarified the tract map being advertised had not yet been filed and stated when it is filed further traffic impacts would be looked at and clarified issues relative to sidewalks and walking asphalt paths. Councilmember Boyajian expressed concern stating it took five years to get signals installed at Ashlan/Cornelia and Ashlan/Blythe, stressed infrastructure needed to go in, and stated the west area was a disgrace and the city needed to get with it. President Duncan stated it was not appropriate to install signals where they are not warranted and noted there was a long waiting list for traffic signals, and stated to deny this project that is being treated like all other projects was a mistake. Ms. Brock responded to questions of Councilmember Westerlund relative to where sidewalks would be installed, annexation schedule, the Milburn Avenue situation, and routes for students to take to school.

A motion of Councilmember Boyajian, seconded by Councilmember Sterling, to deny the rezone application failed, by the following vote:

Ayes : Boyajian, Sterling
Noes : Calhoun, Dages, Perea, Westerlund, Duncan
Absent : None

On motion of Councilmember Calhoun, seconded by Acting President Perea, duly carried RESOLVED, the environmental finding for E.A. No. R-05-040/T-5479, dated November 10, 2005, that the project proposal conforms to the provisions of the General Plan MEIR hereby approved, and the above entitled Bill No. B-49 rezoning the subject property adopted as Ordinance No. 2006-47, by the following vote:

Ayes : Calhoun, Dages, Perea, Westerlund, Duncan
 Noes : Boyajian, Sterling
 Absent : None

147-129

4/18/06

(2:50 P.M.) HEARING ON REZONE APPLICATION NO. R-05-57 AND ENVIRONMENTAL FINDINGS FILED BY ARTEL FARMS, INC., PROPERTY LOCATED NEAR THE NORTHWEST CORNER OF N. BRAWLEY AND W. McKINLEY AVENUES

1. CONSIDER AND ADOPT E.A. NO. R-05-57/T-5587, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. BILL NO. B-50 - ORDINANCE NO. 2006-48 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM RR TO R-1/UGM

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question a planning & development staff member stated the staff report as submitted was complete and there was no new information to add.

David Dyke, President of Artel Farms, requested Council's approval stating this would bring the property into conformity.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

Mr. Dyke and a Yamabe and Horn Engineering representative responded to questions of Councilmember Sterling relative to what infrastructure improvements would be made.

On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the environmental finding for E.A. No. R-05-56/T-5587/UGM, dated December 29, 2005, that the project proposal conforms to the provisions of the General Plan MEIR hereby approved, and the above entitled Bill No. B-50 rezoning the subject property adopted as Ordinance No. 2006-48, by the following vote:

Ayes : Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : Boyajian
 Absent : None

(3:00 P.M.) HEARING ON REZONE APPLICATION NO. R-05-58 AND ENVIRONMENTAL FINDINGS FILED BY DIRK POESCHEL ON BEHALF OF WERNER GRAF, PROPERTY LOCATED ON THE SOUTHEAST CORNER OF W. SAN JOSE AND N. GATES AVENUES

1. CONSIDER AND ADOPT E.A. NO. R-05-58/S-05-115/C-05-11, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. BILL NO. B-51 - ORDINANCE NO. 2006-49 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM R-2/UGM/cz TO R-2/UGM/cz, SPECIFICALLY REQUESTING THE REMOVAL OF THE RESIDENTIAL DENSITY RESTRICTION OF 10 DWELLING UNITS PER ACRE

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question a planning & development staff member stated the staff report as submitted was complete and there was no new information to add.

Upon call, no one wished to be heard and President Duncan closed the hearing.

On motion of Councilmember Calhoun, seconded by Councilmember Westerlund, duly carried, RESOLVED, the environmental finding for E.A. No. R-05-58/S-05-115/V-05-11, dated August 10, 2005, that the project proposal conforms to the provisions of the General Plan MEIR hereby approved, and the above entitled Bill No. B-51 rezoning the subject property adopted as Ordinance No. 2006-49, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None

Absent : None

(3:15 P.M.) RESOLUTION NO. 2006-153 - 16TH AMENDMENT TO SALARY RES. 2005-290 ESTABLISHING LEGISLATIVE POLICY PROHIBITING "PERFORMANCE PAY" SALARY DEDUCTION

President Duncan stated he originally drafted this report with the intent of bringing a policy forward first and then a resolution if the policy was not followed but stated upon the delays that occurred in bringing this matter forward it became clear to him there was no intent to follow Council's legislative policy which was why he went to step 2, requested Council support this change and prohibit the concept of salary take-aways and added the idea of getting employees to buy into this by placing 10% of their basic salary at risk was something he could not

147-130

4/18/06

accept and ran counter to everything he stood for and believed in, stated there were challenges facing the city, the city had great employees, and he felt the best way to incite and motivate them was to provide incentives -- not pay deductions; and clarified the city attorney concluded that Council did have the authority to prohibit this and upon his request Interim City Attorney Sanchez addressed the issues of how this act -- particularly with exempt employees -- might create some problems with the federal law that governs the method of paying employees (Fair Labor Standards Act "FLSA"), and staff's contact with the city of Concord relative to the FLSA issue. A motion and second was made to approve the resolution.

City Manager Souza spoke in opposition, stated he saw this as a shared balancing of risk and reward that comes through all that employees do, stated he did not feel placing salary at risk was a de-motivator and explained, clarified the city did not design the program after the city of Concord's, stated the plan was designed to reach two very specific outcomes which were explained in his response report, spoke further to the program, to the coaching concept **(7 - 0)**, to the issue of including this plan in future MOUs, to the FLSA issue, and to the intent to move this plan to a voluntary basis only, and upon his request Police Chief Dyer, General Services Director Nerland, Planning & Development Director Yovino and PR&CS Director Cooper shared their perspective of the plan as part of the 28 employees participating in it.

Jacky Parks, FPOA President, spoke in support of the resolution stating it was fiscally responsible and in opposition to the plan.

Councilmembers Calhoun, Westerlund, Boyajian, Perea and Sterling all commented on the issue, expressed their support for the resolution and/or opposition to salary deductions, and Mr. Sanchez and Mr. Souza responded throughout to questions, comments, and/or concerns of Councilmembers Westerlund, Perea and Sterling relative to whether this resolution would have to be brought back yearly, if it was vetoable, the process that would follow if the resolution passes with five votes, concern with the quote that fear is a great motivator, who coaches department heads, salary deductions being dangerous, and opposition to using public safety personnel in an experimental program and putting them under any kind stress as they take care of the community daily. Mr. Souza clarified if this resolution passes it would become a functioning part of the annual salary resolution and explained.

(8 - 0) On motion of President Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Resolution No. 2006-153 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

(4:00 P.M.) INITIATING MELLO-ROOS COMMUNITY FACILITY DISTRICT FOR FANCHER CREEK - COUNCILMEMBER DAGES

1. DIRECT STAFF TO MEET WITH THE DEVELOPERS (ED KASHIAN AND TOM RICHARDS) WITHIN THE NEXT 30 DAYS TO OBTAIN THE NECESSARY INFORMATION TO SUBMIT TO COUNCIL A PETITION REQUESTING INSTITUTION OF COMMUNITY FACILITY DISTRICT PROCEEDINGS FOR THE FANCHER CREEK PROJECT

Councilmember Dages gave an overview of the issue, all as contained in his report to Council as submitted, and made a motion to direct staff as outlined above, which motion was seconded by Acting President Perea. City Manager Souza stated he appreciated the need for the Mello-Roos in this area, noted the city had a long history of working with the developers on this project and stated although there

had been disagreements in terms of the process staff would continue to work the developers on this stating it was a critical part of the process.

Tom Lang, 5541 Columbia Drive North, spoke in opposition stating placing this Mello-Roos may place an unnecessary burden on the property in the future and explained.

Interim City Attorney Sanchez, Mr. Souza, Councilmember Dages, Economic Coordinator Bowness and Assistant City Attorney Hale responded to questions and/or concerns of Councilmembers Calhoun, Boyajian and Westerlund relative to why this matter was before Council at this time, if this was a logical request, if this would change anything, if River Park had a Mello-Roos, why staff was not bringing this request forth, concern with unknown implications, surprise that staff was not presenting this with a report, why this action was being requested if staff was already working on the issue, what the developer would pay for, who determines the cost of improvements, if conditions placed would go forward, bonding, if approval of the motion would simply initiate the process, obligations and bond payments, if staff would be reporting back with all details and consequences, and if staff was currently waiting for information from the developers relative to what they intend to build, boundaries, and desired infrastructure.

147-131

4/18/06

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, RESOLVED, staff directed to meet with the developers (Ed Kashian and Tom Richards) within the next 30 days to obtain the necessary information to submit to Council a petition requesting institution of Community Facility District proceedings for the Fancher Creek project, by the following vote:

Ayes :	Boyajian, Dages, Perea, Sterling, Westerlund, Duncan
Noes :	None
Absent :	None
Abstain :	Calhoun

(4:15 P.M.) PRESENTATION BY THE PARKS COMMISSION OF THEIR FINAL REPORT

City Manager M.A. Agabashian gave an overview of the issue and Merv Carter, Parks Commission Chair, and John Valentino, Parks Commissioner, thanked staff, introduced commission members, stated everyone worked hard and expressed the hope that this document would be an action plan, and spoke to the process that was undertaken and reviewed the report **(9 - 0)**.

PR&CS Director Cooper thanked the commission for all their work and advised of the changes that staff would make to the commission's project rankings, inclusions/exclusions, and funding amounts.

Speaking in support of funding for their projects and/or to the need for funding were: Melinda Marks, Executive Officer of the San Joaquin River Conservancy; Dave Koehler, Executive Director of the San Joaquin River Parkway; Paul Saito, Edison High School student Jamila Lee, Ka Lee, and Sanger High School student Pamela Lo, Hmong Friendship & Cultural Gardens; Steve Weil, Kevin Koto and Nate Malo, Downtown Vagabond Skate Park; Jane Fortune, Executive Director of Tree Fresno, and Mark Keppler, CSUF Professor, Master Urban Parkway Planning & Design/Bankside Trail Construction; John Gruberg, President of the Roeding Park Tennis Club, who spoke to how Roeding Park's image needed to be changed; Don Jackson, Rotary Club, Woodward Park Amphitheater; Robert Adams, President of the Fig Garden Youth Soccer League, who spoke to the need for funds for construction of soccer fields; and Javier Guzman, Chair of the Chicano Youth Center, Dickey Youth Development Center **(10 - 0)**.

Councilmember Westerlund thanked the speakers, commended the commission for all their work stating they did a fabulous job, stated obtaining citizen input was important and had been successful, and stated the ball was now in Council's court to decide how to proceed and made a motion to accept the report, which motion was seconded by Councilmember Sterling.

City Manager Souza and Assistant PR&CS Director Haynes responded to questions of Acting President Perea relative to what the process would now be, how much revenue would be raised over the next two decades with the park impact fee, and if there would be any limitations on how and where to spend the money. Acting President Perea thanked the commission for their work, stated he wanted to see downtown and the inner-city focused on, and stated this was a good start and he looked forward to staff's recommendations. Councilmember Boyajian also thanked the commission and his appointee, John Valentino, for all his input, and spoke to his desire to see all the projects funded and to the importance of parks. Councilmember Dages thanked the commission and staff and upon his question Councilmember Westerlund clarified his motion was just to accept the report and did not include staff's recommendation, with Interim City Attorney adding the agenda specified a presentation only so acceptance was as far as Council could go. Councilmember Calhoun

stated this was wonderful work, he hoped the economic benefit of parks to the community would not get lost, strongly encouraged staff to move full speed ahead adding he did not want a response to take six months, noted land values continue to increase and stated land banking was extremely important, and asked that the city not be afraid of bonding. President Duncan requested staff schedule a workshop within the next few months so the public will know what the changes and priorities are.

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, RESOLVED, the final report of the Parks Commission hereby accepted, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes :	None
Absent :	None

147-132

4/18/06

(5:30 P.M.) CONTINUED HEARING TO CONSIDER A RESOLUTION DESIGNATING BUILDING 8, THE FORMER RETAIL SHED OF THE SUGAR PINE LUMBER COMPANY (PINEDALE ASSEMBLY CENTER SITE, STATE HISTORICAL LANDMARK NO. 934, CAMP PINEDALE) AT 7435 N. INGRAM AVENUE TO THE LOCAL REGISTER OF HISTORIC RESOURCES

1. RESOLUTION - DESIGNATING THE FORMER RETAIL SHED OF THE SUGAR PINE LUMBER COMPANY TO THE LOCAL REGISTER OF HISTORIC RESOURCES

President Duncan announced the time had arrived to consider the issue and opened the hearing.

Planning & Development Director Yovino gave an overview of the issue, stated an agreement had been reached on the memorial and added there would be no cost to the city, stated staff wanted the hearing continued again as some entitlements needed to be processed, and recommended Council refer the matter back to staff and advised it would be rescheduled when the rezoning comes before Council.

Speaking to the issue were: Judge Dale Ikeda, Chair of the Pinedale Assembly Center Memorial Project Committee, who expressed the committee's support of the remembrance project, spoke further to the project and elaborated on the history of the internment of over 4,800 Americans of Japanese ancestry, displayed on the overhead photos of story boards along the interpretive wall at Woodward Park which he stated were planned to be depicted at the remembrance plaza, and submitted into the record a letter from the Central Valley Access to Justice Coalition in support of designating Building 8 to the register, on file in the office of the city clerk; David Rodriguez, 409 W. Alluvial, representing the Pinedale community, who spoke in support of the memorial project for the community, the Sugar Pine Lumber Mill and Camp Pinedale, and thanked Council for their support; and Al Solis, Sol Development Associates, representing property owner Granum Partners, who stated he supported staff's recommendation, advised his company would work with staff and process the entitlements, and added the Chamber of Commerce would be sponsoring the story board related to the Sugar Pine Lumber Co.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

Councilmember Calhoun expressed his appreciation for all parties working together, and stated there was no question the Japanese-American community would be represented and upon his question Mr. Rodriguez stated he was working closely with the committee and was satisfied with the representation the Sugar Pine Lumber Co. and Camp Pinedale would have. A motion and second was made to refer the matter back to staff. Councilmember Dages stated he was set to support the Japanese American community this date and hated to see delays, and upon his question Mr. Yovino stated all parties were agreeable to the continuance.

On motion of Councilmember Calhoun, seconded by Councilmember Westerlund, duly carried, RESOLVED, the matter referred back to staff and staff to reschedule the matter within 90 to 100 days, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes :	None
Absent :	None

President Duncan noted he would be absent from next week's meeting and Acting President Perea would be leaving that day at 3:00 p.m. and advised in their absences Redevelopment Agency Chair Sterling would run the meeting.

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 6:45 p.m. having arrived and hearing no objections, President Duncan declared the meeting adjourned.

Approved on the 25th day of April, 2006.

_____/s/_____
President ATTEST: _____
Jerry Duncan, Council President Yolanda Salazar, Assistant City Clerk

147-133

4/18/06